

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 13-20928

Honorable: Robert H. Cleland

v

D-1 CHARLES JAMES MILLER

Defendant.

AMENDMENT TO PRELIMINARY ORDER OF FORFEITURE

A Superseding Indictment was filed on or around November 25, 2014, which charged Defendant with three counts of Production of Child Pornography pursuant to 18 U.S.C. § 2251(a), three counts of Possession of Child Pornography pursuant to 18 U.S.C. § 2252A(a)(5)(B), one count of Receipt of Child Pornography pursuant to 18 U.S.C. § 2252A(a)(2), one count of Possess With Intent to Distribute Controlled Substances pursuant to 21 U.S.C. § 841(a)(1), one count of Felon in Possession of a Firearm pursuant to 18 U.S.C. § 922(g)(1), one count of Possession of Firearms in Furtherance of a Drug Trafficking Crime pursuant to 18 U.S.C. § 924(c) .

The Superseding Indictment also sought criminal forfeiture pursuant to 18 U.S.C. §§ 924(d); 2253; 21 U.S.C. § 853; 28 U.S.C. § 2461(c) of all property that

facilitated or was involved in the offense(s) and/or constituted proceeds traceable to the offense(s).

On or about January 9, 2015, Defendant pleaded guilty to Counts Six and Seven of the Superseding Indictment, which charged Production of Child Pornography pursuant to 18 U.S.C. § 2251(a), and Possession of Child Pornography pursuant to 18 U.S.C. § 2252A(a)(5)(B). Defendant further agreed to the forfeiture of the following firearms (hereinafter “Subject Property”):

- a. Titan Semi-Automatic Pistol, Serial Number: A52941;
- b. SKS Semi-Automatic Rifle, Model: 06151, Serial Number: 23106151K;
- c. Remington SPRG Rifle, Model: 7400, Serial Number: B8003152;
- d. Smith & Wesson Semi-Automatic Pistol, Model: SW40VE, Serial Number: DVN6373.

On August 6, 2015, upon application of the United States, this Court entered a Preliminary Order of Forfeiture (the “Order”) (*Docket #66*). The Order forfeited all of Defendant’s right, title and interest in the Subject Property.

The Court sentenced Defendant on or about August 6, 2015. The Court included forfeiture of the Subject Property in the Defendant’s Judgment (*Docket #69*). Defendant did not object to forfeiture of the Subject Property at sentencing.

Pursuant to Rule 32.2(b)(4)(A) of the Federal Rules of Criminal Procedure, the Order became final as to Defendant at sentencing.

The government has requested that the Preliminary Order of Forfeiture be amended so that the government can return the Smith & Wesson Semi-Automatic Pistol, Model: SW40VE, Serial Number: DVN6373 (“Smith & Wesson”) to Earnest Lee Jones, Jr.

The government has provided notice of the Preliminary Order of Forfeiture to third parties as required by statute and no person other than Earnest Lee Jones, Jr. has made a claim of ownership with regard to the Smith & Wesson. The United States Federal Bureau of Investigation has conducted an investigation into Earnest Lee Jones, Jr. and found that there is cause to return the Smith & Wesson to his possession.

The Court finds there is good cause to amend the Preliminary Order of Forfeiture, and therefore, it is ORDERED that the Preliminary Order of Forfeiture is amended as follows:

The right, title and interest in the Smith & Wesson Semi-Automatic Pistol, Model: SW40VE, Serial Number: DVN6373, is not forfeited to the United States, and the government **IS ORDERED** to the Smith & Wesson Semi-Automatic Pistol,

Model: SW40VE, Serial Number: DVN6373, to Earnest Lee Jones, Jr.

IT IS SO ORDERED.

Dated: September 1, 2015

s/Robert H. Cleland
HONORABLE ROBERT H. CLELAND
United States District Judge